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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

In re

CIRCUIT CITY STORES, INC., ET AL.,  
  
Debtors.

Chapter 11

Case No. 08-35653(KRH)

Jointly Administered

[No Hearing Required]

**EEL MCKEE LLC'S NOTICE OF APPEARANCE; REQUEST FOR SERVICE OF PAPERS; DEMAND FOR DEBTORS' IMMEDIATE COMPLIANCE WITH ALL POST-PETITION OBLIGATIONS UNDER 11 U.S.C. 365(d)(3)**

**TO THE CLERK OF THE BANKRUPTCY COURT, ALL PARTIES IN INTEREST AND THEIR RESPECTIVE COUNSEL OF RECORD:**

**PLEASE TAKE NOTICE** that Eel McKee LLC ("Eel McKee"), a creditor and party in interest in the above-captioned Chapter 11 case, hereby files this Notice of Appearance pursuant to Rules 2002(g) and 9010(b) of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), and requests that any notice directed to Eel McKee in this case be sent to the following address:

Howard, Rice, Nemerovski, Canady, Falk & Rabkin  
Attn: Gary M. Kaplan, Esq.  
Three Embarcadero Center, 7th Floor  
San Francisco, California 94111-4065

Phone: (415) 434-1600  
Facsimile: (415) 217-5910  
Email: [gmkaplan@howardrice.com](mailto:gmkaplan@howardrice.com)

**PLEASE TAKE FURTHER NOTICE** that Eel McKee hereby requests service, directed to the foregoing address (by facsimile, email or other electronic means if possible) of the disclosure statement and plan referred to in Bankruptcy Rule 3017, as well as any matter in which Eel McKee has a potential interest in the subject matter or would otherwise be affected by the matter.

**PLEASE TAKE FURTHER NOTICE** that this request should not be deemed to constitute a request for notice of all matters which may come before the Court, but as to which Eel McKee neither has a potential interest in the subject matter nor would otherwise be affected.

**PLEASE TAKE FURTHER NOTICE** that demand is hereby made pursuant to 11 U.S.C. §365(d)(3) for the above-captioned Debtors' immediate compliance with all post-petition obligations pursuant to that certain Lease between (Debtor) Circuit City Stores West Coast, Inc. as Tenant and Eel McKee as Landlord, dated as of August 13, 2004 with respect to certain real property located at 111 E. El Camino Real, Sunnyvale, CA (the "Sunnyvale Lease"), which Eel McKee understands the Debtors refer to as "Location No. 233," including, without limitation, payment of all rent, real estate taxes, insurance, utility charges, common area maintenance, maintenance, repairs and improvements, and applicable interest, penalties, late fees, attorneys' fees and expenses . Without limiting the foregoing, such obligations include the pro-rated amounts for the "stub period" from November 10, 2008, the date of the commencement of the above-captioned case, to November 30, 2008. 11 U.S.C. §365(d)(3); *In re Trak Auto Corp.*, 277 B.R. 655 (Bankr. E.D. Va. 2002); *In re Best Products Company, Inc.*, 206 B.R. 404 (Bankr. E.D. Va. 1997).

Neither this notice of appearance nor any subsequent appearance, pleading, claim, proof of claim, document, suit, motion, nor any other writing or conduct shall constitute a waiver of Eel McKee's:

1. right to have any and all final orders in any and all non-core matters entered only after *de novo* review by a United States District Court Judge;
2. right to trial by jury in any proceeding as to any and all matters so triable herein, whether or not the same be designated legal or private rights, or in any case, controversy or proceeding related hereto, notwithstanding the designation of such matters as “core proceedings” pursuant to 28 U.S.C. § 157(b)(2), and whether such jury trial right is pursuant to statute or the United States Constitution;
3. right to have the reference of this matter withdrawn by the United States District Court in any matter or proceeding subject to mandatory or discretionary withdrawal; and
4. other rights, claims, actions, defenses, setoffs, recoupments or other matters to which Eel McKee is entitled under any agreements or at law or equity or under the United States Constitution.

All of the above rights are expressly reserved and preserved unto Eel McKee without exception and with no purpose of confessing or conceding the jurisdiction or venue of the Court or venue of the case in any way by this filing.

DATED: December 11, 2008

HOWARD, RICE, NEMEROVSKI, CANADY,  
FALK & RABKIN  
A Professional Corporation

By: /s/ Gary M. Kaplan  
GARY M. KAPLAN

Attorneys for Creditor and Party in Interest  
EEL MCKEE LLC